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Senate

FREEDOM OF INFORMATION ACT AMENDMENTS

● **Mr. DENTON.** Mr. President, today I introduce legislation to amend and improve the Freedom of Information Act (FOIA) by providing a specific exemption from disclosure for information related to terrorism and foreign counterintelligence. The legislation also deletes a current provision of 5 U.S.C. 552 that requires the release of segregable portions of a record to an FOIA requester.

On December 10, 1981, FBI Director William Webster testified before the Subcommittee on the Constitution of the Senate Judiciary Committee. He described, in detail, cases in which hostile foreign intelligence services, members of terrorist groups, and others have used the FOIA to identify FBI informants and frustrate FBI investigations.

As early as 1979, Judge Webster revealed that, for that year alone, he knew of 125 cases where individuals refused to provide the FBI with information because of fears that their names would be released under an FOIA request.

I firmly believe that, in order to more effectively deal with terrorists and foreign intelligence operatives, who are increasingly sophisticated in their intelligence-gathering methods and who rejoice at the ease with which they are able to obtain sensitive information in our open, democratic society, we need to close some loopholes in the law that allow them access to information that they should not have. Additionally, such requests have a chilling effect on informants who fear exposure through information released under the FOIA. Those informants have become hesitant about cooperating with our law enforcement agencies.

Last year, when we were considering other amendments to the FOIA, I advised my colleagues on the Judiciary Committee that the Senate and House would need to act very soon to protect highly sensitive information gathered for foreign counterintelligence purposes. In some cases, the response to

an FOIA request amounts to acknowledgement by the FBI that a file exists on a specific subject. As a result, hostile intelligence services are put on notice that an investigation is underway or has taken place.

The bill also addresses the problem of segregability. As the law stands now, records requested under the FOIA must be reviewed line by line to determine releasability. That type of review frequently requires the release of often seemingly innocuous information within a document, which, when pieced together with other information, could conceivably be the piece of information a hostile intelligence-gathering team needs to complete its mosaic.

The time has come to stop what amounts to giving help to terrorists and hostile foreign intelligence services through provisions in a law that was never intended to be used for that purpose. I ask for the support of my colleagues in amending those provisions. ●

Mr. DENTON. Mr. President, I ask unanimous consent that the text of the bill which I introduced yesterday, S. 2395, a bill to amend the Freedom of Information Act to provide for the protection from disclosure of records related to terrorism and foreign counterintelligence, be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 552 of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon;

(3) by adding after paragraph (9) the following new paragraph:

"(10) related to the investigation of terrorism or concerned with foreign counterintelligence operations."; and

(4) by striking out the second sentence thereof.